

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nora Chanko	Team: Squad #3	CCRB Case #: 201709690	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 11/20/2017 10:40 PM	Location of Incident: [REDACTED]	Precinct: 81	18 Mo. SOL 5/20/2019	EO SOL 5/20/2019	
Date/Time CV Reported Tue, 11/21/2017 2:55 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 11/21/2017 2:55 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Gerard Fenton	06680	951725	077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SDS David Cheesewright	01990	913752	INT CIS
2. POM Andrew Kamna	24865	943423	073 PCT
3. DT2 Lawrence Hotaling	02671	897695	084 PCT
4. POM Kellan Oneill	10409	952069	PSA 3
5. POM Christophe Griffith	00258	951791	077 PCT
6. POM Leonard Clarke	27183	940013	084 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton entered § 87(2)(b) in Brooklyn.	[REDACTED]
B.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton searched § 87(2)(b) in Brooklyn.	[REDACTED]
C.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton refused to show the search warrant to § 87(2)(b)	[REDACTED]
D. Officers	Abuse: Officers failed to show the search warrant to § 87(2)(b)	[REDACTED]

## Case Summary

§ 87(2)(b) filed this complaint with the CCRB on November 21, 2017, via the online website.

At approximately 10:40 p.m. on November 20, 2017, § 87(2)(b) was in his house at § 87(2)(b) in Brooklyn. Sgt. David Cheesewright, PO Gerard Fenton, PO Kellan O'Neill, PO Christopher Griffith, PO Leonard Clarke, PO Andrew Kamna, and Det. Lawrence Hotaling, all of the Patrol Borough Brooklyn North Field Intelligence Office, arrived, along with ESU officers and several officers of the 81<sup>st</sup> Precinct. Officers entered and searched § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g) **Allegation B: Abuse of Authority**, § 87(2)(g) § 87(2)(b) asked PO Fenton to see a copy of the search warrant, and PO Fenton said that he could go to the precinct and did not show him a copy (**Allegation C: Abuse of Authority**, § 87(2)(g) § 87(2)(b) asked several other officers to see a copy of the search warrant, and no officer showed him a copy (**Allegation D: Abuse of Authority**, § 87(2)(g) § 87(2)(b)). No arrests were made and no summonses were issued as a result of this incident.

No video footage was obtained regarding this incident.

## Findings and Recommendations

### **Allegation (A) Abuse of Authority: Police Officer Gerard Fenton entered**

§ 87(2)(b) **in Brooklyn.**

### **Allegation (B) Abuse of Authority: Police Officer Gerard Fenton searched**

§ 87(2)(b) **in Brooklyn.**

It is undisputed that multiple officers entered and searched § 87(2)(b) pursuant to a search warrant. Because PO Fenton was the officer who requested the warrant, Allegations A and B were pleaded against him.

§ 87(2)(b) stated that he was on the ground floor of § 87(2)(b) when he heard the police enter his building. § 87(2)(b) stated that the building has four floors and a basement, and contains four apartments, each of which require a key to enter. There is only one entrance to the building from the street, and there is no buzzer system. The building is owned by § 87(2)(b) father, and as such, § 87(2)(b) is not on a lease. § 87(2)(b) minor son, § 87(2)(b) two adult cousins, § 87(2)(b) and § 87(2)(b) and § 87(2)(b)'s girlfriend, § 87(2)(b) were home at the time. Additional family members, and people who are not family, lived in the building at the time of the incident, but were not present during the incident. Numerous officers in plain clothes, uniforms, and "SWAT" gear entered. PO Fenton handcuffed § 87(2)(b) and he was brought to his cousin's apartment with his family members who were inside the building at the time. § 87(2)(b) estimated that the officers were in the building for one to two hours in all, and searched every apartment, which he knew because afterwards he saw that the "stuff" in each apartment had been "tossed around." Officers left without placing anyone under arrest. § 87(2)(b) also stated that his property was damaged, but as that occurred during the execution of the search warrant, no additional allegations were pleaded. § 87(2)(b) provided a picture of his kitchen, which shows a door with a doorknob with a keyhole, and an additional lock with a keyhole above the doorknob (01 Board Review).

PO Fenton stated that § 87(2)(b) is a private house and does not contain separate apartments, which he determined by searching through previous detective notes (DD5s) and arrest records. PO Fenton did not remember which other searches he conducted, or whether he checked the Department of Buildings' (DOB) website. The searches showed that multiple people lived inside the house, but there were no apartment numbers. PO Fenton later said that the building would be listed as a multifamily home on the DOB website, but it was used as a single-family house, which he knew based on the information from DD5s, prior arrests, and statements of people who lived there that it was a single-family home. PO Fenton had requested the search warrant in regards to information from a registered confidential informant (CI) that a firearm was inside the location. Upon arrival to § 87(2)(b) PO Fenton thought that ESU initially entered and searched the location for 10 minutes. PO Fenton did not remember whether any of the doors had markings, locks, or doorknobs, nor did he remember whether ESU told him if they had to forcibly enter rooms or whether the doors coming off of the hallways were locked.

The DD5s from active I-Cards, made in 2016, note that § 87(2)(b) lives at § 87(2)(b) and do not specify an apartment number (02 Board Review). Shawn § 87(2)(b) and § 87(2)(b) are also listed as living at the building with no apartment number.

§ 87(2)(b) is classified as a multi-family and three family home on the DOB website, and on NYCMap (03 Board Review). At least four apartments are listed on Lexis Nexis, which is information available to the public (04 Board Review). On Google Maps street view, no exterior mailboxes are visible (05 Board Review).

Search Warrant § 87(2)(b) signed on § 87(2)(b) by the Honorable Judge § 87(2)(b) authorized officers to enter and search § 87(2)(b) Private House," without knocking, in search of § 87(2)(b) a firearm, and additional property (06 Board Review). The search warrant accurately describes the exterior of § 87(2)(b) § 87(2)(b)

Criminal Procedure Law 690.05 allows an officer in possession of a search warrant to conduct a search of designated premises (07 Board Review).

§ 87(2)(b), § 87(2)(g)  
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§ 87(2)(b), § 87(2)(g)

**Allegation (C) Abuse of Authority: Police Officer Gerard Fenton failed to show the search warrant to § 87(2)(b)**

§ 87(2)(b) said that after the search, he asked the officers, including PO Fenton, for a search warrant. The allegations § 87(2)(b) made against other officers are discussed below under Allegation D. In response to his request, PO Fenton told § 87(2)(b) that he could come to the precinct, and he never saw a copy of the search warrant.

PO Fenton did not remember if anyone asked to see the search warrant. PO Fenton said that if someone asks for the warrant, he “usually” shows a copy, thought he did not have a specific recollection of showing the search warrant on that day. PO Fenton did not remember telling anyone that they could come to the precinct to see a copy of the warrant. PO Fenton said that typically, there are multiple copies of the search warrant amongst the team, but he did not know whether he had a copy on his person or whether it was in his car.

Sgt. Cheesewright said his usual policy is to carry a copy of the warrant with him, tell his officers that he has it, and instruct them to refer any civilians who want to see the warrant to him so he can show them a copy. Sgt. Cheesewright did not remember whether any civilians asked to see a copy of the search warrant, or whether he showed it to anyone. Sgt. Cheesewright did not remember if he witnessed any refusals to show the warrant.

PO Kamna, PO Oneill, PO Clarke, and PO Griffith denied hearing any civilians ask any officers to see a copy of the search warrant. PO Griffith, PO Oneill, PO Kamna, and Det. Hotaling denied hearing any officer tell a civilian that they could go to the precinct in response to a request to see the search warrant. PO Kamna did not hear any officers tell Sgt. Cheesewright that a civilian had asked to see the search warrant, and did not see anyone show a copy to the civilian. PO Kamna and PO Oneill denied seeing Sgt. Cheesewright show a copy to a civilian. PO Clarke and PO Griffith denied witnessing any officer refuse to show a copy of the search warrant upon request, and PO Oneill denied learning that this had occurred. In addition, PO Kamna and PO Hotaling denied that officers complained that an officer refused to show a copy of the search warrant.

§ 87(2)(b), § 87(2)(g)

**Allegation (D) Abuse of Authority: Officers failed to show the search warrant to § 87(2)(b)**

§ 87(2)(b) stated that he asked several additional officers to see a copy of the search warrant, and though he did not remember how each responded, they never showed it to him. § 87(2)(b) was only able to describe these officers as two white males in plain clothes with silver badges, and one black male officer in plain clothes with a silver badge. § 87(2)(b) specifically described a white male in uniform with a white shirt, and said he did not ask this officer to see a copy of the search warrant.

Based on the Pre-Warrant Execution plan, officers' pedigree information, and officer photos, Cpt. Breslin, PO Kamna, PO Oneill, and Det. Hotaling are white males, PO Fenton, PO Clarke, and PO Griffith are black males, and Sgt. Cheesewright is an Asian male with a medium complexion or brown skin (08 and 09 Board Review).

PO Kamna denied being asked to see the search warrant and denied showing a copy to anyone. As discussed above, he did not hear anyone ask any other officers to see the search warrant, and did not see anyone show a copy of it.

PO Oneill did not know if any civilians asked him to see a copy of the search warrant, but denied refusing to show the search warrant. PO Oneill said he usually refers to the supervisor when someone asks, but did not have a specific recollection of telling Sgt. Cheesewright that any civilians asked to see a copy of the search warrant. As discussed above, PO Oneill did not observe any civilians ask to see the search warrant from any officer, and he never learned that anyone had refused to show the search warrant. PO Oneill did not see Sgt. Cheesewright show a copy of the search warrant to anyone.

Det. Hotaling, PO Clarke, and PO Griffith denied that any civilians asked them to see the search warrant, and denied refusing to show the search warrant. As discussed above, PO Clarke and PO Griffith denied witnessing civilians ask any other officers to see the search warrant or fail to show the search warrant.

PO Fenton did not remember if he observed any civilian ask any officer to see the search warrant or if any other officers showed copies of the search warrant to civilians inside.

As discussed above, Sgt. Cheesewright did not remember if he showed a copy of the search warrant or if he witnessed any refusals to show the warrant.

§ 87(2)(b), § 87(2)(g)

### **Civilian and Officer CCRB Histories**

- § 87(2)(b) [REDACTED]  
[REDACTED]
- PO Fenton has been a member-of-service for six years and has been a subject in eight CCRB complaints and 27 allegations, none of which were substantiated. PO Fenton's CCRB history does not reflect any apparent pattern pertinent to this investigation.

### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- § 87(2)(b) [REDACTED]  
[REDACTED]
- As of November 13, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (12 Board Review).

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Squad No.: 3

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date